

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1565 - SB 1613

February 1, 2016

SUMMARY OF BILL: Makes defenses to the offense of unlawful possession of a firearm available to persons who are prohibited from possessing a firearm because of a prior conviction for a violent felony or for a felony drug offense, if the person has had their convictions expunged, or had their rights of citizenship fully restored in Tennessee, another state, or under federal law.

ESTIMATED FISCAL IMPACT:

Decrease State Expenditures – \$27,400/Incarceration*

Assumptions:

- Under current law, a person convicted of a violent felony or a felony drug offense is prohibited from possessing a firearm, even if the person has had his or her rights restored. *See State v. Johnson*, 79 S.W.3d 522 (Tenn. 2002) (holding that the plain language of Tenn. Code Ann. § 39-17-1307(b)(1) prohibits one who has been convicted of a violent felony or a felony drug offense from possessing a handgun regardless of the person having his or her rights restored).
- The bill would make the defenses to unlawful possession of a firearm available to a person who has had his or her rights restored.
- Unlawful possession of a firearm by a felon is a Class C felony if the felon was convicted of a violent felony and a Class D felony if the felon was convicted of a felony drug offense.
- Statistics from the Department of Correction (DOC) show an average of 4.9 admissions per year for unlawful possession of a firearm by a violent felon and 3 admissions per year for unlawful possession of a firearm by a drug felon.
- Some of the defenses that would be made available under the bill are possession of an unloaded firearm not concealed on the person's body; possession incident to lawful hunting, trapping, fishing, camping, sports shooting, or other lawful activity; and possession while engaged in the protection of livestock from predatory animals.
- It is assumed that the bill will result in one less Class C felony admission every five years and one less Class D felony admission every five years for unlawful possession of a firearm.
- The average time served for a Class C felony is 3.22 years (1,176.11 days) and the average time served for a Class D felony is 2.32 years (847.38 days).

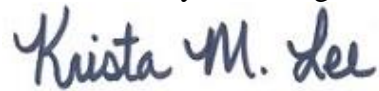
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- According to the DOC, the average operating cost per offender per day for calendar year 2016 is \$67.73.
- The bill will decrease annual incarceration costs by \$27,410.20 $\{[(1,176.11 + 847.38) \times \$67.73] / 5 \text{ years}\}$.

*Tennessee Code Annotated, Section 9-4-210, requires that: *For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/trm